

Fiscal Services Division

Legislative Services Agency

Fiscal Note

HF 2570 - Sale of ICN Network (LSB 5450 HZ)

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Fiscal Note Version - New

Description

HF 2570 provides for the sale of the Iowa Communications Network (ICN) assets, provides for related technical and substantive changes, and provides for an effective date.

Assumptions

1. There are 770 video classrooms connected to the Network.
2. There are 3,100 miles of State-owned fiber.
3. There are more than 1,200 authorized users.
4. The annual operations budget for the ICN is approximately \$35.0 million.
5. Two different purchase plans are available under this Bill. They are as follows:
 - A. The first sale option is the indefeasible right-of-use agreement.
 - The sale would include most of the backbone fiberoptic cable and optronics, or light-passing equipment. The indefeasible right-of-use agreement would allow the State to have use of the backbone capacity, optical wavelengths, Part II facilities, and the dark fiber connecting various Part III aggregation points to the Network backbone-switching points.
 - The State would continue to provide adequate telecommunications services to the authorized users.
 - The agreement will be for a negotiated period of seven to twenty-five years, and two optional renewal periods of ten years each.
 - At the end of the indefeasible right-of-use agreement and extensions, the wavelength capacities covered by the agreement will pass completely to the purchaser.
 - The Commission can use indefeasible right-of-use agreements to acquire and dispose of property, equipment, and services.
 - The sale proceeds will be used to prepay any remaining construction debt and to provide a source of funds for an equipment replacement trust fund.
 - The Iowa Communications Network Equipment Upgrade and Replacement Trust Fund is established separate and apart from all other public moneys or funds of the State under the control of the Treasurer of State and the Department of Management. The Fund will be comprised of the proceeds from the sale of the Iowa Communications Network assets, including certain State-owned fiberoptic cable and related equipment located outside the Des Moines metropolitan area, and the portion of the fees charged to authorized users for depreciation.
 - The Iowa Communications Network Fund will be comprised of the proceeds from the bonds issued, funds received from leases, and other moneys by law credited to or designated by a person for deposit into the Fund. Interest received by the State, as a result of investing the contents of the Fund, shall be credited to the Fund for use by the Commission. The Commission can also solicit or accept gifts, including donations and bequests, to be deposited into the Iowa Communications Network Equipment Upgrade and Replacement Fund.
 - B. The second sale option is the alternative sale option listed in Section 401 of the Bill.
 - This sale is where the purchaser could purchase all of the Iowa Communications Network, with the exception of Polk County, as long as the purchaser agrees to

- continue providing telecommunication services to all current authorized users for a minimum of seven years following the date of purchase and may continue services for fifteen or twenty-five years.
- Existing authorized users are not required to continue purchasing telecommunications services once the sale is final.
 - The purchaser may increase or decrease the price based on the Gross Domestic Product Price Index.
 - Proceeds from the sale of the backbone assets under this purchase options will be deposited into the General Fund of the State.
6. An intermediary professional agent will be used for the sale of the Iowa Communications Network assets.
 7. The Governor, in consultation with the Treasurer of State and the Department of Management, will negotiate the fair terms of compensation for the professional agent. The Governor will have the right of final approval of the purchaser and the terms of the sale with concurrence with the Legislative Council. If the alternative purchase option is approved, the Governor, with concurrence from the legislative council, the Department of Management, in consultation with the Authority and the Executive Director of the Commission, will provide rules and submit a recommendation to the General Assembly.
 8. A sales authority consisting of the Treasurer of State, the Auditor of State, two members of the Iowa Telecommunications and Technology Commission, and one member of the Iowa Utilities Board will oversee the sale of the ICN process.
 9. Total Certificates of Participation notes issued in support of the Iowa Communications Network have been \$114.5 million. Through FY 2004, approximately \$78.1 million has been repaid.
 10. The FY 2004 cost to maintain the entire Network is \$9.2 million.
 11. The Department of Transportation currently charges the ICN an annual right-of-way occupancy fee of \$1.00 predicated on the restriction that the ICN is used solely for governmental purposes. The purchaser would have to negotiate right-of-way fees with the Department of Transportation. The Bill states the fees will be no more favorable than for the right-of-way use fees for any other telecommunication utility.
 12. Fees charged for the use of the Network will be based on the ongoing operational and depreciation costs of the Network and of providing State communications only.
 13. The terms of the sale of assets will also include the purchase of field services including maintenance, provisioning, and build out from the purchaser and committing the commission to pay a monthly fee for fiber maintenance and field services for the assets sold.
 14. The Commission can permit a fee to be charged by the receiving site to the originator of the communication provided on the Network. The fee charged will be for the purpose of recovering the operating costs of a receiving site.
 15. The General Assembly will make an annual appropriation to the Commission for equipment replacement based on an annual recommendation from the Treasurer of State and the Department of Management. The exception is for failed or obsolete equipment, which can be taken from the fund.
 16. House File 2570 takes effect upon enactment.

Fiscal Impact

The fiscal impact of HF 2570 cannot be determined due to insufficient information. The fee paid to the professional agent is unknown. Also, the purchase price of the ICN is unknown and will be negotiated with the purchaser at the time of the sale.

Under the current schedule of debt service payment, the General Assembly will appropriate approximately \$13.0 million in FY 2005 and \$1.7 million in FY 2006 from the Restricted Capital Fund to pay the remaining debt service.

Proceeds from a sale involving an indefeasible right-of-use agreement will go into an Iowa Communications Network Equipment Upgrade and Replacement Trust Fund whereas the proceeds from the sale under the alternative purchase option would be deposited into the General Fund of the State.

Source

Iowa Communications Network

Dennis C Prouty

April 7, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.
